

CHAPTER 111

GAMBLING REGULATION AND LICENSING

S.F. 526

AN ACT relating to certain forms of gambling, including horse racing, pari-mutuel wagering, and gambling games, and requiring a study of intrastate internet poker, and including effective date and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I HORSE RACING

Section 1. Section 99D.7, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. To adopt standards regarding the duration of thoroughbred and quarter horse racing seasons, so that a thoroughbred racing season shall not be less than sixty-seven days, and so that a quarter horse racing season shall not be less than twenty-six days. The thoroughbred and quarter horse racing seasons shall be run independently unless mutually agreed upon by the associations representing the thoroughbred and quarter horse owners and the licensee of the horse racetrack located in Polk county.

Sec. 2. Section 99D.7, subsection 4, Code 2011, is amended to read as follows:

4. a. To regulate the purse structure for race meetings including establishing a minimum purse.

b. The commission shall, beginning January 1, 2012, regulate the purse structure for all horse racing so that seventy-six percent is designated for thoroughbred racing, fifteen and one-quarter percent is designated for quarter horse racing, and eight and three-quarter percent is designated for standardbred racing. The purse moneys designated for standardbred racing may only be used to support standardbred harness racing purses at the state fair, county fairs, or other harness racing tracks approved by the commission, or for the maintenance or repair of harness racing tracks at the fairgrounds for such fairs or other harness racing tracks approved by the commission. The horse racetrack in Polk county shall not provide funding to support standardbred racing at such county fairs that is not otherwise provided for in this paragraph.

c. (1) The purse moneys designated for standardbred racing shall be payable to a nonprofit corporation operated exclusively for those purposes allowed an exempt organization under section 501(c)(4) of the Internal Revenue Code, as defined in section 422.3, which was organized under the laws of this state on or before January 1, 2008, which exists for the promotion of the sport of harness racing in this state, and which received supplemental payments from the horse racetrack in Polk county for the conduct of harness racing during the 2010 calendar year. The nonprofit corporation receiving such purse moneys shall complete and provide to the commission an annual audit and accounting of the allocation of such moneys.

(2) Of the purse moneys designated for thoroughbred racing, two percent shall be distributed to an organization representing owners of thoroughbred race horses for the purpose of paying the annual operating expenses of the organization and for the promotion and marketing of Iowa-bred horses. The organization receiving such purse moneys shall complete and provide to the commission an annual audit and accounting of the allocation of such moneys.

(3) Of the purse moneys designated for quarter horse racing, two percent shall be distributed to an organization representing owners of quarter horse race horses for the purpose of paying the annual operating expenses of the organization and for the promotion and marketing of Iowa-bred horses. The organization receiving such purse moneys shall complete and provide to the commission an annual audit and accounting of the allocation of such moneys.

Sec. 3. Section 99D.9, subsection 1, Code 2011, is amended to read as follows:

1. If the commission is satisfied that its rules and sections 99D.8 through 99D.25 applicable to licensees have been or will be complied with, it may issue a license for a period of not more than three years. The commission may decide which types of racing it will permit. The commission may permit dog racing, horse racing of various types, or both dog and horse racing. However, only quarter horse and thoroughbred racing shall be allowed to be conducted at the horse racetrack located in Polk county. The commission shall decide the number, location, and type of all racetracks licensed under this chapter. The license shall set forth the name of the licensee, the type of license granted, the place where the race meeting is to be held, and the time and number of days during which racing may be conducted by the licensee. The commission shall not approve a license application if any part of the racetrack is to be constructed on prime farmland outside the city limits of an incorporated city. As used in this subsection, “prime farmland” means as defined by the United States department of agriculture in 7 C.F.R. § 657.5(a). A license is not transferable or assignable. The commission may revoke any license issued for good cause upon reasonable notice and hearing. The commission shall conduct a neighborhood impact study to determine the impact of granting a license on the quality of life in neighborhoods adjacent to the proposed racetrack facility. The applicant for the license shall reimburse the commission for the costs incurred in making the study. A copy of the study shall be retained on file with the commission and shall be a public record. The study shall be completed before the commission may issue a license for the proposed facility.

Sec. 4. Section 99D.11, subsection 2, Code 2011, is amended to read as follows:

2. Licensees shall only permit the pari-mutuel or certificate method of wagering, or the advanced deposit method of wagering, as defined in this section.

Sec. 5. Section 99D.11, subsection 3, Code 2011, is amended to read as follows:

3. The licensee may receive wagers of money only from a person present in a licensed racetrack enclosure on a horse or dog in the race selected by the person making the wager to finish first in the race or from a person engaging in advanced deposit wagering as defined in this section. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.

Sec. 6. Section 99D.11, subsection 6, paragraph a, Code 2011, is amended to read as follows:

a. All wagering shall be conducted within the racetrack enclosure where the licensed race is held, except as provided in paragraph paragraphs “b” and “c”.

Sec. 7. Section 99D.11, subsection 6, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. (1) The commission shall authorize the licensee of the horse racetrack located in Polk county to conduct advanced deposit wagering. An advanced deposit wager may be placed in person at a licensed racetrack enclosure, or from any other location via a telephone-type device or any other electronic means. The commission may also issue an advanced deposit wagering operator license to an entity who complies with subparagraph (3) and section 99D.8A.

(2) For the purposes of this section, “advanced deposit wagering” means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering. Of the net revenue, less all taxes paid and expenses directly related to account deposit wagering incurred by the licensee of the horse racetrack located in Polk county, received through advanced deposit wagering, fifty percent shall be designated for the horse purses created pursuant to section 99D.7, subsection 4, and fifty percent shall be designated for the licensee for the pari-mutuel horse racetrack located in Polk county.

(3) Before granting an advanced deposit wagering operator license to an entity other than the licensee of the horse racetrack located in Polk county, the commission shall enter into an agreement with the licensee of the horse racetrack located in Polk county, the Iowa

horsemen's benevolent and protective association, and the prospective advanced deposit wagering operator for the purpose of determining the payment of statewide source market fees and the host fees to be paid on all races subject to advanced deposit wagering. The commission shall establish the term of such an advance deposit wagering operator license. Such an advanced deposit wagering operator licensee shall accept wagers on live races conducted at the horse racetrack in Polk county from all of its account holders if it accepts wagers from any residents of this state.

(4) An unlicensed advanced deposit wagering operator or an individual taking or receiving wagers from residents of this state on races conducted at the horse racetrack located in Polk county is guilty of a class "D" felony.

(5) For the purposes of this paragraph "c", "*advanced deposit wagering operator*" means an advanced deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk county and the Iowa horsemen's benevolent and protective association to provide advanced deposit wagering.

Sec. 8. Section 99D.22, subsection 1, Code 2011, is amended to read as follows:

1. a. A licensee shall hold at least one race on each racing day limited to Iowa-foaled horses or Iowa-whelped dogs as defined by the department of agriculture and land stewardship using standards consistent with this section. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted.

b. A sum equal to twelve percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. The twelve percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund. The department shall pay the amount deposited in the fund that is withheld from the purse won by an Iowa-foaled horse to the breeder of the winning Iowa-foaled horse by December 31 of each calendar year. The department shall pay the amount deposited in the fund that is withheld from the purse won by an Iowa-whelped dog to the breeder of the winning Iowa-whelped dog by March 31 of each calendar year. For the purposes of this section, the breeder of a horse shall be considered to be the owner of the brood mare at the time the foal is dropped.

c. No less than twenty percent of all net purse moneys distributed to each breed, as described in section 99D.7, subsection 4, paragraph "b", shall be designated for registered Iowa-bred foals in the form of breeder's awards or purse supplement awards to enhance and foster the growth of the horse breeding industry.

Sec. 9. Section 99F.6, subsection 4, paragraph a, Code 2011, is amended to read as follows:

a. (1) Before a license is granted, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the applicant for a license to operate a gambling game operation on an excursion gambling boat. The applicant shall provide information on a form as required by the division of criminal investigation.

(2) A qualified sponsoring organization licensed to operate gambling games under this chapter shall distribute the receipts of all gambling games, less reasonable expenses, charges, taxes, fees, and deductions allowed under this chapter, as winnings to players or participants or shall distribute the receipts for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.7, subsection 3, paragraph "b". However, a licensee to conduct gambling games under this chapter shall, unless an operating agreement for an excursion gambling boat otherwise provides, distribute at least three percent of the adjusted gross receipts for each license year for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.7, subsection 3, paragraph "b". However, if a licensee who is also licensed to conduct pari-mutuel wagering at a horse racetrack has unpaid debt from the pari-mutuel racetrack operations, the first receipts of the gambling games operated within the racetrack enclosure less reasonable operating expenses, taxes, and fees allowed under this chapter shall be first used to pay the annual indebtedness.

(3) The commission shall authorize, subject to the debt payments for horse racetracks and the provisions of paragraph "b" for dog racetracks, a licensee who is also licensed to conduct

pari-mutuel dog or horse racing to use receipts from gambling games within the racetrack enclosure to supplement purses for races particularly for Iowa-bred horses pursuant to an agreement which shall be negotiated between the licensee and representatives of the dog or horse owners. For agreements subject to commission approval concerning purses for horse racing beginning on or after January 1, 2006, ~~and ending before January 1, 2021~~, the agreements shall provide that total annual purses for all horse racing shall be no less than eleven percent of the first two hundred million dollars of net receipts, and six percent of net receipts above two hundred million dollars. In addition, live standardbred horse racing shall not be conducted at the horse racetrack in Polk county, but the purse moneys designated for standardbred racing pursuant to section 99D.7, subsection 4, paragraph "b", shall be included in calculating the total annual purses required to be paid pursuant to this subsection. Agreements that are subject to commission approval concerning horse purses for a particular period of time beginning on or after January 1, 2006, ~~and ending before January 1, 2021~~, shall be jointly submitted to the commission for approval.

(4) A qualified sponsoring organization shall not make a contribution to a candidate, political committee, candidate's committee, state statutory political committee, county statutory political committee, national political party, or fund-raising event as these terms are defined in section 68A.102. The membership of the board of directors of a qualified sponsoring organization shall represent a broad interest of the communities.

(5) For purposes of this paragraph, "*net receipts*" means the annual adjusted gross receipts from all gambling games less the annual amount of money pledged by the owner of the facility to fund a project approved to receive vision Iowa funds as of July 1, 2004.

DIVISION II COUNTY REFERENDUMS AND GAMBLING GAME LICENSING

Sec. 10. Section 99F.4A, subsection 8, paragraph a, Code 2011, is amended to read as follows:

a. The commission shall, upon the immediate payment of the applicable table games license fee and submission to the commission by June 1, 2005, of an application by a licensee of a pari-mutuel dog or horse racetrack licensed to conduct gambling games at a pari-mutuel racetrack enclosure, issue a license to the licensee to conduct table games of chance, including video machines that simulate table games of chance, at the pari-mutuel racetrack enclosure subject to the requirements of this subsection. However, a table games license may only be issued to a licensee required to pay a table games license fee of three million dollars under this subsection if the licensee, and all other licensees of an excursion gambling boat in that county, file an agreement with the commission authorizing the granting of a table games license under this subsection and permitting all licensees of an excursion gambling boat to operate a moored barge as of a specific date. The licensee shall be granted a table games license by the commission ~~without conducting a separate referendum authorizing table games~~ upon payment of the applicable license fee to the commission which table games license fee may be offset by the licensee against taxes imposed on the licensee by section 99F.11, to the extent of twenty percent of the table games license fee paid pursuant to this subsection for each of five consecutive fiscal years beginning with the fiscal year beginning July 1, 2008. Fees paid pursuant to this subsection are not refundable to the licensee. A licensee shall not be required to pay a fee to renew a table games license issued pursuant to this subsection. Moneys collected by the commission from a table games license fee paid under this subsection shall be deposited in the rebuild Iowa infrastructure fund created in section 8.57.

Sec. 11. Section 99F.7, subsection 11, paragraphs a, b, d, and e, Code 2011, are amended to read as follows:

a. A license to conduct gambling games ~~on an excursion gambling boat~~ in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, and subject to the requirements of paragraph

“e”, shall direct the commissioner of elections to submit to the registered voters of the county a proposition to approve or disapprove the conduct of gambling games ~~on an excursion gambling boat~~ in the county. The proposition shall be submitted at an election held on a date specified in section 39.2, subsection 4, paragraph “a”. To be submitted at a general election, the petition must be received by the board of supervisors at least five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued.

b. ~~If licenses a license to conduct gambling games and to operate an excursion gambling boat are is~~ in effect pursuant to a referendum as set forth in this section and ~~are is~~ subsequently disapproved by a referendum of the county electorate, the ~~licenses license~~ issued by the commission after a referendum approving gambling games ~~on excursion gambling boats~~ shall remain valid and ~~are is~~ subject to renewal for a total of nine years from the date of original issue ~~or one year from the date of the referendum disapproving the conduct of gambling games, whichever is later~~, unless the commission revokes a license at an earlier date as provided in this chapter.

d. ~~If the proposition to operate gambling games on an excursion gambling boat or at a racetrack enclosure is approved by a majority of the county electorate voting on the proposition, the board of supervisors shall submit the same a proposition requiring the approval or defeat of gambling games to the county electorate at the general election held in 2002 and, unless the operation of gambling games is terminated earlier as provided in this chapter or chapter 99D, at the general election held at each subsequent eight-year interval as provided in paragraph “e”, unless the operation of gambling games is terminated earlier as provided in this chapter or chapter 99D. However, if a proposition to operate gambling games is approved by a majority of the county electorate voting on the proposition in two successive elections, a subsequent submission and approval of a proposition under this subsection shall not thereafter be required to authorize the conduct of gambling games pursuant to this chapter.~~

e. ~~After a referendum has been held which approved or defeated a proposal to conduct gambling games on excursion gambling boats or which defeated a proposal to conduct gambling games at a licensed pari-mutuel racetrack enclosure as provided in this section, another referendum on a proposal to conduct gambling games on an excursion gambling boat or at a licensed pari-mutuel racetrack shall not be held for at least eight years until the eighth calendar year thereafter.~~

Sec. 12. Section 99F.7, subsection 15, Code 2011, is amended to read as follows:

15. If a licensed excursion boat stops at more than one harbor and travels past a county without stopping at any port in that county, the commission shall require the excursion boat operator to develop a schedule for ports of call ~~in which a county referendum has been approved, and the port of call has that have the necessary facilities to handle the boat.~~ The commission may limit the schedule to only one port of call per county.

Sec. 13. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 14. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to elections occurring on or after January 1, 1994.

DIVISION III REPORT ON THE POSSIBLE REGULATION OF INTRASTATE INTERNET POKER

Sec. 15. The administrator of the state racing and gaming commission shall prepare a report for delivery to the general assembly no later than December 1, 2011, regarding the creation of a framework for the state regulation of intrastate internet poker. The report shall

consider the current state of unregulated internet poker play in Iowa, consumer protection, and responsible gaming measures that can be implemented through regulation, licensing structures, regulatory recommendations, affiliations with licensees regulated under chapter 99F, and the collection of wagering taxes. The administrator may consult with licensees regulated under chapter 99F, with tribes that have entered into an agreement or compact with the state of Iowa as described in section 10A.104, subsection 10, with potential internet poker hub operators, and with any other interested parties in the preparation of the report. The administrator shall not be required within the report to make specific recommendations regarding the legalization of intrastate internet poker in Iowa. The director of public health shall prepare a report for delivery to the administrator of the state racing and gaming commission no later than October 1, 2011, regarding the societal impacts of internet poker in Iowa for inclusion in the administrator's report. The director shall not be required within the director's report to make specific recommendations regarding the legalization of intrastate internet poker in Iowa.

Approved May 26, 2011